

COPY

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Lower Passaic River Study Area portion
of the Diamond Alkali Superfund Site

In and About Essex, Hudson, Bergen and
Passaic Counties, New Jersey

Alcan Corporation, et al.

) Amendment No. 2 to Agreement
)

) U.S. EPA Region 2
) CERCLA Docket No. 02-2004-2011
)

) PROCEEDING UNDER SECTION
) 122(h) OF CERCLA;
) 42 U.S.C. §9622(h)
)

I. INTRODUCTION AND JURISDICTION

1. The Agreement, Index No. 02-2004-2011, was entered into between the United States Environmental Protection Agency ("EPA") and thirty-one Settling Parties and became effective on June 22, 2004, and was amended effective November 9, 2005 to include twelve additional Settling Parties (the "Agreement"). Pursuant to the Agreement the Settling Parties agreed to fund EPA's Future Response Costs, as that term is defined in the Agreement, up to \$10,000,000 and to provide a Contingent Funding Commitment of up to \$750,000.00.
2. The Agreement was issued pursuant to the authority vested in the Administrator of the EPA by Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(h), which authority has been delegated to the Regional Administrators of the EPA and further redelegated to the Director of the Emergency and Remedial Response Division, Region II by EPA Regional Delegation 14-4-D on November 23, 2004. The Agreement was also entered into pursuant to the authority of the Attorney General of the United States to compromise and settle claims of the United States, which authority, in the circumstances of this settlement, was delegated to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice.
3. EPA and the Settling Parties acknowledge that they have negotiated an agreement relating to the Settling Parties' completion of the remedial investigation and feasibility study ("RI/FS") portion of the Lower Passaic River Restoration Project, as more particularly set forth in Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study, CERCLA Docket No. 02-2007-2009 (the



(ii) the Settling Parties shall pay the amount specified in a Contingent Funding Demand by making payment within thirty (30) days of the Settling Parties' receipt of the Contingent Funding Demand to the EPA Account identified in Paragraph 12;

(iii) EPA has already presented, and the Settling Parties have paid, a written demand for the payment of an additional amount of \$750,000, and although EPA may issue multiple additional Contingent Funding Demands, the total amount of all such demands shall not exceed the Contingent Funding Commitment;

(iv) EPA will limit the amount of any Contingent Funding Demand to no more than the estimated amount of Future Response Costs in excess of \$10,000,000.00 that EPA believes to be necessary to complete the RI/FS portion of the Project, including reasonable contingencies; and

(v) if EPA incurs less than the amount paid by the Settling Parties in response to any and all Contingent Funding Demands, EPA will return the excess funds remaining in the Diamond Alkali Superfund Site-Lower Passaic River Study Area Special Account to the Settling Parties.

- d. The first two sentences at Paragraph 15 are replaced by the following sentences:

Settling Parties may not dispute any payment of Future Response Costs until EPA has incurred \$10,000,000, or such greater amount to include any and all payments made by Settling Parties in response to a Contingent Funding Demand. After EPA has incurred \$10,000,000, or such greater amount to include any and all payments made by Settling Parties in response to a Contingent Funding Demand, EPA will perform an accounting of all direct and indirect costs relating to Future Response Costs and provide Settling Parties with a "final" SCORPIOS Report supporting those costs.

- e. Paragraph 17 is replaced with the following sentence:

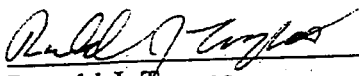
If the Settling Parties fail to make any payment required by Paragraph 11 and/or Paragraph 13 or if Liaison Counsel fails to transfer funds from the Escrow Account to EPA as required by Paragraph 12 by the required due dates, Interest shall accrue on the unpaid balance through the date of payment.

- f. The first sentence of Paragraph 18.a is replaced with the following sentence:

closed and that comments received, if any, do not require modification of or withdrawal by the United States from this Amendment No. 2.

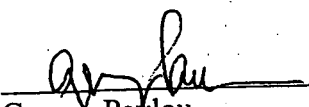
IT IS SO AGREED.

For: U.S. Department of Justice

By: 
Ronald J. Tenpas
Acting Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

June 7, 2007
Date

For: U.S. Environmental Protection Agency

By: 
George Pavlou
Director
Emergency and Remedial Response Division
USEPA Region II

5/31/07
Date

SIGNATURE PAGE

**IN THE MATTER OF: LOWER PASSAIC RIVER STUDY AREA
PORTION OF THE DIAMOND ALKALI SUPERFUND SITE**

Amendment No. 2 to the 122(h) Settlement Agreement

The signatory identified below certifies that he or she: is fully authorized to represent the Settling Party in this matter; has reviewed the Agreement and is familiar with its terms and conditions; agrees to the terms and conditions of the Agreement and Amendment No. 2 on behalf of the Settling Party; and binds Settling Party to all of the terms and conditions of the Agreement and this Amendment No. 2.

Agreed this 20th day of March, 2007

For Settling Party: Arkema Inc.

By: _____

Richard L. Charter II

Title: President

Legacy Site Services LLC, exclusive agent for Arkema Inc.

Address: Legacy Site Services LLC

1201 Louisiana Street

Houston, TX 77002

Phone Number: 713 483-5041

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Agreed this 13 day of March, 2007

For Settling Party: Chemtura Corporation and Raclaur, LLC as current and former owner of the property f/k/a Atlantic Industries

By: [Signature] Tinker

Title: PHILIP TINKER, VP

Address: C/O MARK C. FURSE

1025 Ashland Avenue

Wilmette, IL 60091

Phone Number: 847-251-1614

SIGNATURE PAGE

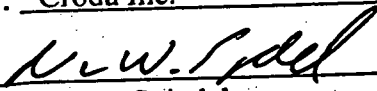
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Agreed this 19th day of March, 2007

For Settling Party: Croda Inc.

By: 
Norman W. Spindel

Title: Attorney and Authorized Agent for Croda Inc.

Address: c/o Lowenstein Sandler PC

65 Livingston Avenue

Roseland, NJ 07068

Phone Number: 973.597.2514

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Agreed this 26th day of March, 2007

For Settling Party: *Robert W. Baker*
EPEC Polymers, Inc. for itself and for EPEC Oil Company Liquidating Trust

By: Robert W. Baker

Title: Executive Vice President and General Counsel

Address: 1001 Louisiana

Houston, TX 77002

Phone Number: (713) 420-7021

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Agreed this 23rd day of March, 2007

For Settling Party: CHRYSLER MORTGAGE CO. INC.

By: *Charles J. Murray*

Title: Pres

Address: 10 MIDLAND AVE

WARRINGTON NJ 07057

Phone Number: 973-777-5700

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Agreed this 14 day of March, 2007

For Settling Party: GENERAL Motors Corporation

By: James P. Wall

Title: Attorney, General Motors Legal Staff

Address: 300 Renaissance CTR.
Mail code 482-C24-D24
P.O. Box 300

Detroit, Mi 48265

Phone Number: (313) 665-4877

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Agreed this 16th day of April, 2007

For Settling Party: Hercules Chemical Company, Inc.

By: James A. Kosch (James A. Kosch)

Title: Attorney

Address: Reed Smith LLP

136 MAIN ST. — SUITE 250

Princeton, N.J. 08543-7039

Phone Number: 609-514-8545

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Agreed this 28th day of March, 2007

For Settling Party: Honeywell

By: John J. Morris

Title: John J. Morris, Remediation Portfolio Director

Address: 101 Columbia Road
Morris Plains, NJ 07962

Phone Number: (973) 455-4003

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Agreed this 15 day of March, 2007

For Settling Party: ITT Corporation

By: Kathleen S. Stolan

Title: VP, Secretary & Assoc. General Counsel

Address: 4 West Red Oak Lane

White Plains, NY 10604

Attn: F. Daves, Legal Dept.

Phone Number: 914 641 2148

SIGNATURE PAGE

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Agreed this 3rd day of ^{April}~~March~~, 2007

For Settling Party: National-Standard LLC

By: [Signature]

Title: President / CEO

Address: 1631 Lake Street

Niles MI 49120

Phone Number: 312 419 8220

SIGNATURE PAGE

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Agreed this 16th day of March, 2007

For Settling Party: Sun Chemical Corporation

By: M. M. Cox

Title: Sr. Vice President and General Counsel

Address: 35 Waterview Boulevard

Parsippany, New Jersey 07054

Phone Number: 973-404-6500

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Agreed this 19th day of March, 2007

For Settling Party: TEVAL CORP

By: Don Driscoll - Leg.

Title: PRESIDENT

Address: C/O CROWELL & MORIN ATT.

1001 PENNSYLVANIA AVE N.W.

WASHINGTON, D.C. 20004

Phone Number: (202) 624-2887

RISEWAY HALL
OR
KIRSTEN NATHANSON

SIGNATURE PAGE

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Agreed this 22nd day of March, 2007

For Settling Party: The BOC Group, Inc.

By: James Stewart

Title: Attorney and Authorized Agent for The BOC Group, Inc.

Address: Lowenstein Sandler, P.C.

65 Livingston Avenue

Roseland, NJ 07068

Phone Number: 973.597.2522

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Agreed this 28th day of March, 2007

For Settling Party: The Newark Group, Inc.

By: James Stewart

Title: Attorney and Authorized Agent for The BOC Group, Inc.

Address: Lowenstein Sandler, P.C.

65 Livingston Avenue

Roseland, NJ 07068

Phone Number: 973.597.2522

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Agreed this 29th day of March, 2007

For Settling Party: Wyeth, on behalf of Shulton, Inc.

By: *Steven A. Tash*

Title: Vice President

Address: Wyeth

5 Giralda Farms

Madison, New Jersey 07940

Phone Number: 973-660-5210

Appendix A - Settling Parties

1. Alliance Chemical, Inc. on behalf of itself and Pfister Chemical, Inc.
2. Arkema Inc.
3. Ashland Inc.
4. BASF Corporation, on its own behalf and on behalf of BASF Catalysts LLC
5. Belleville Industrial Center
6. Benjamin Moore & Co.
7. CBS Corporation, a Delaware corporation, f/k/a Viacom Inc., successor by merger to CBS Corporation, a Pennsylvania corporation, f/k/a Westinghouse Electric Corporation
8. Celanese Ltd.
9. Chemtura Corporation and Raclaur, LLC as current and former owner of the property f/k/a Atlantic Industries
10. Chevron Environmental Management Company, for itself and on behalf of Texaco, Inc.
11. Coltec Industries
12. Conopco, Inc. d/b/a Unilever (as successor to CPC/Bestfoods, former parent of the Penick Corporation (facility located at 540 New York Avenue, Lyndhurst, NJ))
13. Covanta Essex Company
14. Croda Inc.
15. DiLorenzo Properties Company on behalf of itself and the Goldman /Goldman/DiLorenzo Properties Partnerships
16. E. I. du Pont de Nemours and Company
17. Eden Wood Corporation
18. Elan Chemical Company
19. EPEC Polymers, Inc. on behalf of itself and EPEC Oil Company Liquidating Trust
20. Essex Chemical Corporation
21. Flexon Industries Corp.
22. Franklin-Burlington Plastics, Inc.
23. Garfield Molding Co., Inc.
24. General Motors Corporation
25. General Electric Company
26. Givaudan Fragrances Corporation (Fragrances North America)
27. Goodrich Corporation on behalf of itself and Kalama Specialty Chemicals, Inc.
28. Hercules Chemical Company, Inc.

55. Safety-Kleen Envirosystems Company by McKesson, and McKesson Corporation for itself
56. Sequa Corporation
57. Sun Chemical Corporation
58. Tate & Lyle Ingredients Americas, Inc. (f/k/a A.E. Staley Manufacturing Company, including its former division Staley Chemical Company)
59. Teva Pharmaceuticals USA, Inc. (f/k/a Biocraft Laboratories, Inc.)
60. Teval Corporation
61. Textron Inc.
62. The BOC Group, Inc.
63. The Hartz Consumer Group, Inc., on behalf of The Hartz Mountain Corporation
64. The Newark Group
65. The Sherwin-Williams Company
66. The Stanley Works
67. Three County Volkswagen
68. Tiffany and Company
69. Vertellus Specialties Inc. f/k/a Reilly Industries, Inc.
70. Vulcan Materials Company
71. Wyeth, on behalf of Shulton, Inc.

Appendix B - Additional Settling Parties

1. Arkema Inc.
2. Belleville Industrial Center
3. Chemtura Corporation and Raclaur, LLC as current and former owner of the property f/k/a Atlantic Industries
4. Conopco, Inc. d/b/a Unilever (as successor to CPC/Bestfoods, former parent of the Penick Corporation (facility located at 540 New York Avenue, Lyndhurst, NJ))
5. Croda Inc.
6. Eden Wood Corporation
7. EPEC Polymers, Inc. on behalf of itself and EPEC Oil Company Liquidating Trust
8. Flexon Industries Corp.
9. Garfield Molding Co., Inc.
10. General Electric Company
11. General Motors Corporation
12. Goodrich Corporation on behalf of itself and Kalama Specialty Chemicals, Inc.
13. Hercules Chemical Company, Inc.
14. Hoffmann-La Roche Inc. on its own behalf, and on behalf of its affiliate Roche Diagnostics
15. Honeywell International Inc.
16. ISP Chemicals LLC
17. ITT Corporation
18. Millennium Chemicals, Inc. affiliated entities MHC, Inc. (on behalf of itself and Walter Kidde & Company, Inc.), Millennium Petrochemicals, Inc. (f/k/a Quantum Chemical Corporation) and Equistar Chemicals LP
19. National-Standard LLC
20. Sequa Corporation
21. Sun Chemical Corporation
22. Tate & Lyle Ingredients Americas, Inc. (f/k/a A.E. Staley Manufacturing Company, including its former division Staley Chemical Company)
23. Teval Corporation
24. Textron Inc.
25. The BOC Group, Inc.
26. The Hartz Consumer Group, Inc., on behalf of The Hartz Mountain Corporation

Appendix C

1. Alliance Chemical, Inc. on behalf of itself and Pfister Chemical, Inc.
2. Ashland Inc.
3. BASF Corporation, on its own behalf and on behalf of BASF Catalysts LLC
4. Benjamin Moore & Co.
5. CBS Corporation, a Delaware corporation, f/k/a Viacom Inc., successor by merger to CBS Corporation, a Pennsylvania corporation, f/k/a Westinghouse Electric Corporation
6. Celanese Ltd.
7. Chevron Environmental Management Company, for itself and on behalf of Texaco, Inc.
8. Coltec Industries
9. Covanta Essex Company
10. DiLorenzo Properties Company on behalf of itself and the Goldman /Goldman/DiLorenzo Properties Partnerships
11. E. I. du Pont de Nemours and Company
12. Elan Chemical Company
13. Essex Chemical Corporation
14. Franklin-Burlington Plastics, Inc.
15. Givaudan Fragrances Corporation (Fragrances North America)
16. Hess Corporation, on its own behalf and on behalf of Atlantic Richfield Company
17. Hexcel Corporation
18. Kao Brands Company
19. Leemilt's Petroleum, Inc. (successor to Power Test of New Jersey, Inc.), on its behalf and on behalf of Power Test Realty Company Limited Partnership and Getty Properties Corp., the General Partner of Power Test Realty Company Limited Partnership
20. Lucent Technologies Inc.
21. Mallinckrodt Inc.
22. Newell Rubbermaid Inc., on behalf of itself and its wholly-owned subsidiaries Goody Products, Inc. and Berol Corporation (as successor by merger to Faber-Castell Corporation)
23. News Publishing Australia Ltd. (successor to Chris-Craft Industries)
24. Novelis Corporation (f/k/a Alcan Aluminum Corporation)
25. NPEC Inc.
26. Occidental Chemical Corporation (as successor to Diamond Shamrock Chemicals Company)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

August 27, 2007

BY TELECOPY & OVERNIGHT DELIVERY

Emily Won, Esq.
William H. Hyatt, Jr., Esq.
Kirkpatrick & Lockhart Preston Gates Ellis LLP
One Newark Center
Tenth Floor
Newark, NJ 07102

**Re: Diamond Alkali Superfund Site - Lower Passaic River Study Area
Amendment No. 2 to Agreement Pursuant to Section 122(h) of CERCLA
CERCLA Docket No. 02-2004-2011**

Dear Counsellors:

This will advise that the 30-day public comment period applicable to the above-referenced Amendment ended on August 20, 2007. The United States Environmental Protection Agency ("EPA") received one letter containing a comment on the Amendment.

EPA has considered the public comment and has determined nothing contained therein discloses facts or considerations that indicate the proposed amendment is inappropriate, improper or inadequate. Accordingly, EPA will not modify or withdraw from the Amendment. A copy of EPA's response to the comment is enclosed, and will be placed in the Administrative Record for the Lower Passaic River Study Area and posted on www.ourpassaic.org.

In accordance with Paragraph 8 of the Amendment, EPA hereby issues written notice that the effective date of the Amendment is August 27, 2007.

Thank you for your cooperation in working with EPA to achieve this settlement.

Sincerely,

A handwritten signature in cursive script that reads "Sarah P. Flanagan".

Sarah P. Flanagan
Assistant Regional Counsel